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Congress of the United States

House of Representatives

Washington, DC 20515-4324

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POSTAL REGULATORY
COMMISSION
OFFICE OF THE SECRETARY

April 20, 2018

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

Dear Secretary Mnuchin:

I am writing to you in your new capacity as Chairman of the President's Task Force on the United States Postal System. I appreciate the President's commitment to improving the quality of service and fiscal health of our postal system, and your role in leading these efforts.

As the task force is organized, I would appreciate your thorough review of legislation that was recently introduced in the House of Representatives, H.R. 5524, that addresses the current fiscal issues associated with inbound packages from China and other countries. As you may know, the United States Postal Service (USPS) loses significant money delivering inbound international packages. The Postal Regulatory Commission's (PRC) *Annual Compliance Determination Report* disclosed the \$170 million loss on international letter post in Fiscal Year 2017. This was a major increase over the losses of \$134.5 million in 2016 and \$97.9 million in 2015. Given the expected future dramatic increases in e-commerce shipping, if unchecked, these losses will continue to pile up on the USPS's balance sheet. American postal ratepayers should not be subsidizing the delivery costs for inbound packages from China and other foreign countries.

I have heard from many businesses of the competitive imbalance the USPS has created for them in trying to compete with foreign merchants. In many cases, it is significantly cheaper to mail a package from China to Texas than it is to mail a package of the same weight within Texas. This results in our domestic companies losing business to foreign competitors because they can ship their product to a U.S. customer at a cheaper cost.

This problem was created by the postal service honoring the Universal Postal Union's (UPU) artificially low rates. It was shocking for me to learn last year that, despite the United States not actually being an active party to the UPU, the USPS continues to choose to honor these low rates. We have the ability to reform this decades-old problem, and we must urgently reform it given the growing costs associated with it.

Enclosed with this correspondence is my recently introduced legislation, H.R. 5524. My legislation calls upon the PRC to establish postal delivery rates for inbound international packages that ensure parity with domestically shipped items. I would appreciate your task force's thorough review of the legislation as you develop your recommendations for improving our postal system. The USPS faces many significant fiscal issues; many of them may require tough choices for postal ratepayers and postal employees. Among the choices to improve the fiscal health of the USPS before you, reforming inbound international mail should be among the highest and easiest priorities to address. Earlier this year, the USPS raised the price on postage while not addressing this problem. It is simply not fair to ask my constituents to pay more for stamps while subsidizing inbound packages from China.

Thank you for your consideration of this letter and the introduced legislation, and I look forward to receiving your response. Should you have any questions, please feel free to contact me, or my Deputy Chief of Staff, Scott Cunningham, at 202.225.6605 or scott.cunningham@mail.house.gov. Thank you for your leadership and service in reforming our postal system.

Sincerely,


Kenny Marchant
Member of Congress

Enclosure

cc: The Honorable Mick Mulvaney
Director, Office of Management and Budget

The Honorable Jeff T.H. Pon
Director, Office of Personnel Management

The Honorable Megan Brennan
Postmaster General

The Honorable Robert Taub
Chairman, Postal Regulatory Commission for additional inclusion in IM 2016-1
international mail docket.

115TH CONGRESS
2D SESSION

H. R. 5524

To amend title 39, United States Code, to require the United States Postal Service to establish rates for delivery of inbound international mail that do not discriminate between foreign and domestic mailers, to review foreign practices with respect to the exchange of e-commerce goods with the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2018

Mr. MARCILANT (for himself, Mr. ABRAHAM, and Mr. ROSS) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on Ways and Means, and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 39, United States Code, to require the United States Postal Service to establish rates for delivery of inbound international mail that do not discriminate between foreign and domestic mailers, to review foreign practices with respect to the exchange of e-commerce goods with the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. LIMITATION ON THE AUTHORITY OF SEC-**
2 **RETARY OF STATE WITH RESPECT TO INTER-**
3 **NATIONAL POSTAL AGREEMENTS.**

4 Subsection (b)(1) of section 407 of title 39, United
5 States Code, is amended to read as follows:

6 “(b)(1) The Secretary of State shall be responsible
7 for formulation, coordination, and oversight of foreign pol-
8 icy related to international postal services and other inter-
9 national delivery services and shall have the power to con-
10 clude postal treaties, conventions, and amendments re-
11 lated to international postal services and other inter-
12 national delivery services, except that the Secretary may
13 not conclude any treaty, convention, or other international
14 agreement (including any regulation of the Universal
15 Postal Union binding on the United States) if such treaty,
16 convention, or agreement would—

17 “(A) with respect to any competitive product,
18 grant an undue or unreasonable preference to the
19 Postal Service, a private provider of international
20 postal or delivery services, or any other person; or

21 “(B) require the Postal Service to establish a
22 classification, rate, or fee for any postal service ex-
23 cept as provided in subsection (f).”.

1 **SEC. 2. NONDISCRIMINATORY RATES FOR DELIVERY OF IN-**
2 **BOUND INTERNATIONAL MAIL GENERALLY.**

3 Subsection (c) of section 407 of title 39, United
4 States Code, is amended to read as follows:

5 “(c)(1) Except as provided in subsection (f), the Gov-
6 ernors shall, in accordance with the provisions of chapter
7 36, establish reasonable and equitable classes of mail and
8 reasonable and equitable rates of postage and fees for the
9 transportation and delivery within the United States of
10 documents and goods received from other countries. Such
11 classifications, rates, and fees shall be regulated by the
12 Postal Regulatory Commission in the same manner as
13 comparable domestic classifications, rates, and fees, and
14 shall be available to users of domestic postal services
15 under the same terms and conditions as provided to for-
16 eign post offices and other entities tendering documents
17 and goods from other countries to the Postal Service.

18 “(2) The classifications, rates, and fees established
19 by the Postal Service under this subsection and subsection
20 (d) shall not discriminate between documents or goods re-
21 ceived from other countries based on the country of origin,
22 the nationality of the sender, or the ownership or govern-
23 mental designation of the entity tendering the documents
24 or goods to the Postal Service.”.

1 **SEC. 3. PREFERENTIAL RATES FOR INBOUND NON-**
2 **COMMERCIAL MAIL FROM DEVELOPING**
3 **COUNTRIES.**

4 Section 407 of title 39, United States Code, is
5 amended by adding at the end the following:

6 “(f)(1) Pursuant to subsection (b), the Secretary of
7 State may conclude a treaty, convention, amendment, or
8 other intergovernmental agreement that requires the Post-
9 al Service to provide preferential classifications, rates, or
10 fees for the transportation and delivery within the United
11 States of documents and goods received from other coun-
12 tries in accordance with this subsection.

13 “(2) No classification, rate, or fee established under
14 this subsection shall—

15 “(A) apply to documents and goods sent from
16 an industrialized country to the United States;

17 “(B) apply to commercial goods sent to the
18 United States from a country that exports such com-
19 mercial goods to the United States in quantities that
20 have a significant competitive effect on business con-
21 cerns within the United States;

22 “(C) discriminate between documents or goods
23 received from a specific country based on the owner-
24 ship or governmental designation of the entity ten-
25 dering the documents or goods to the Postal Service;
26 or

1 “(D) be effective for more than 4 years.

2 “(3) At least 120 days prior to concluding negotia-
3 tions with respect to any treaty, convention, amendment,
4 or other intergovernmental agreement (including any reg-
5 ulation of the Universal Postal Union binding on the
6 United States Government) that proposes to establish a
7 preferential classification, rate, or fee pursuant to para-
8 graph (1), the Secretary of State shall submit the pro-
9 posed classification, rate, or fee to the Postal Regulatory
10 Commission for review together with a written statement
11 explaining why it is in the foreign policy or national secu-
12 rity interest of the United States to provide such pref-
13 erence (provided that the Secretary may designate por-
14 tions that shall be kept confidential for reasons of foreign
15 policy or national security for a period not exceeding 4
16 years).

17 “(4) Promptly after receiving a request under para-
18 graph (3), the Commission shall provide notice and an op-
19 portunity for public comment in conformance with the
20 rulemaking requirements of section 553 of title 5, United
21 States Code. The Commission may also provide for an evi-
22 dentiary hearing on the record if it considers such a hear-
23 ing necessary. In its review, the Commission shall deter-
24 mine whether the proposed classification, rate, or fee is—

1 “(A) reasonably calculated to achieve the for-
2 eign policy or national security objectives defined by
3 the Secretary in a manner that is as consistent as
4 possible with the national policies established in sub-
5 section (a); and

6 “(B) consistent with the requirements of para-
7 graph (2) of this subsection.

8 Unless the Commission determines that the proposed pref-
9 erential classification, rate, or fee must be disapproved,
10 the Commission shall also provide an estimate of the mon-
11 etary value of the approved preference for each year for
12 which the preference is to be effective.

13 “(5) Within 90 days of receiving a request under
14 paragraph (3), Commission shall issue a decision which
15 approves, approves with modifications, or disapproves the
16 proposed classification, rate, or fee. The Secretary shall
17 ensure that each treaty, convention, or amendment con-
18 cluded under this section is consistent with the decision
19 of the Commission.

20 “(6) The Commission shall periodically determine the
21 difference between the revenues received by the Postal
22 Service pursuant to preferential classifications, rates, or
23 fees approved under this subsection and the revenues that
24 the Postal Service would have received in the absence of
25 such classifications, rates, or fees. Such estimates shall be

1 included in the annual report provided by the Commission
2 under section 3651(b).

3 “(7) Within 3 months after the end of each Govern-
4 ment fiscal year, the Secretary shall transfer to the Postal
5 Service the revenues foregone due to such preferential
6 rates, fees, or classifications in the previous fiscal year,
7 as determined by the Commission, from funds appro-
8 priated to the Department of State for that purpose.

9 “(8) Within 120 days from the enactment of this sec-
10 tion, the Commission shall promulgate (and may there-
11 after revise) such regulations as it deems necessary and
12 proper to implement this subsection. In promulgating such
13 regulations, the Commission shall take account of, but not
14 be bound by the definitions of terms and other standards
15 of the Universal Postal Union.”.

16 **SEC. 4. EFFECT ON INTERNATIONAL POSTAL AGREEMENTS.**

17 (a) IN GENERAL.—In the implementation of para-
18 graph 407(b)(1) of title 39, United States Code, as
19 amended by section 1, the Secretary of State may not con-
20 clude, approve, or otherwise agree to the Universal Postal
21 Convention adopted by the Congress of the Universal
22 Postal Union held in Istanbul in 2016.

23 (b) APPLICATION.—This Act supersedes any postal
24 treaties, conventions, and amendments related to inter-
25 national postal services and other international delivery

1 services (including any regulation of the Universal Postal
2 Union binding on the United States Government) to which
3 the United States is a party to the extent such postal trea-
4 ties, conventions, and amendments are inconsistent with
5 this Act.

6 **SEC. 5. REPORT ON TRADE IN E-COMMERCE GOODS.**

7 (a) IN GENERAL.—Not later than 1 year after the
8 date of enactment of this Act, the Secretary of Commerce
9 shall, in consultation with the Office of the United States
10 Trade Representative and with other Federal agencies as
11 appropriate, submit a report to the President and Con-
12 gress on the policies of foreign governments toward the
13 transmission of e-commerce goods to or from the United
14 States by means of international postal services and other
15 international delivery services.

16 (b) REPORT CONTENTS.—The report required in
17 subsection (a) shall identify and analyze—

18 (1) foreign subsidies, laws, or other govern-
19 mental programs that provide for foreign merchants
20 unfair or unreasonable assistance in the sale of e-
21 commerce goods to consumers in the United States;

22 (2) foreign subsidies, laws, or other govern-
23 mental programs that unfairly disadvantage United
24 States merchants in the sale of e-commerce goods to
25 consumers in other countries; and

1 (3) foreign laws and policies relating to the ex-
2 change of e-commerce goods which are inconsistent
3 with the policies of the United States regarding
4 international trade in services generally (section
5 104A(a) of the Trade Act of 1974; 19 U.S.C.
6 2114a(a)) and international postal agreements (sec-
7 tion 407(a) of title 39, United States Code) and
8 which are detrimental to the interests of the domes-
9 tic or international operations of United States com-
10 panies.

11 (c) PROPOSALS.—The report required in subsection
12 (a) should propose appropriate steps that could be taken
13 by the Secretary of Commerce, by other Federal agencies,
14 or by Congress to remedy issues identified under sub-
15 section (b). Such steps may include proposals for—

16 (1) remedial actions that may be taken by the
17 United States alone;

18 (2) modification of existing trade, postal, or
19 other international agreements or development of
20 new trade, postal, or other international agreements;

21 (3) United States advocacy in international or-
22 ganizations; and

23 (4) modification or improvement in the coordi-
24 nation of policies and positions among United States
25 agencies.

1 (d) COUNTRIES COVERED.—The report required in
2 subsection (a) may be limited to countries that, in the
3 judgment of the Secretary of Commerce, have or soon will
4 have a significant level of trade in e-commerce goods with
5 the United States.

6 **SEC. 6. EFFECTIVE DATE.**

7 This Act shall take effect on the date that is one year
8 after the date of enactment of this Act, except for section
9 4(a) which shall take effect on such date of enactment.

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